

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1156

AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 6-1.1-18.5-13, AS AMENDED BY P.L.73-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

(1) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.

(2) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that

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purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's **estimate of the unit's** share of the costs of operating a court for the first full calendar year in which it is in existence. **For purposes of this subdivision, costs of operating a court include:**

- (A) the cost of personal services (including fringe benefits);**
- (B) the cost of supplies; and**
- (C) any other cost directly related to the operation of the court.**

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and three-hundredths (1.03):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year

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immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.

(4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(5) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and

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contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(6) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's township assistance ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing township assistance under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's township assistance ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

(7) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

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(8) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$0.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(9) Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center,

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including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) that operates a county jail or juvenile detention center that is subject to an order that:

- (i) was issued by a federal district court; and
- (ii) has not been terminated;

(C) that operates a county jail that fails to meet:

- (i) American Correctional Association Jail Construction Standards; and
- (ii) Indiana jail operation standards adopted by the department of correction; or

(D) that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.

Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(10) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

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(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(12) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under this section to reallocate property tax replacement credits under IC 6-3.5-1.1 in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned under this section to have reallocated in 2001 for a purpose other than property tax relief.

**SECTION 2. IC 31-12-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Chapter 1.5. Other Domestic Relations Courts**

**Sec. 1. (a) This chapter applies in a judicial circuit in which a majority of the judges of the circuit and superior courts determine that:**

**(1) the social conditions of the county; and**

**(2) the number of domestic relations cases in the courts;**

**make the procedures described in IC 31-12-1 necessary for the full and proper consideration of domestic relations cases.**

**(b) The judges shall make the determination described in subsection (a) annually in January.**

**Sec. 2. If the judges of a judicial circuit make the determination**

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described in section 1 of this chapter, the judges shall designate by joint order one (1) or more of the judges in the judicial circuit to hear cases under this chapter. A judge designated under this section may hold as many sessions each week as are necessary for the prompt disposition of the court's business.

**Sec. 3.** A court exercising the jurisdiction described in section 2 of this chapter may be designated as a domestic relations court.

**Sec. 4.** A court designated as a domestic relations court under section 3 of this chapter has the jurisdiction and special powers described in IC 31-12-1-4. A court designated as a domestic relations court under this chapter, IC 31-12-1, or IC 31-12-2 retains jurisdiction to hear any type of case the court had jurisdiction to hear before the court was designated as a domestic relations court.

**Sec. 5. (a)** If a judge appointed to act as judge of the domestic relations court is:

- (1) on vacation;
- (2) absent; or
- (3) for any reason unable to perform the judge's duties;

a majority of the judges of the superior and circuit courts may appoint another of the judges to act as judge of the domestic relations court during that period.

**(b)** A judge appointed under subsection (a) has all the powers and authority of the regularly presiding judge of the domestic relations court.

**Sec. 6.** IC 31-12-1-6 through IC 31-12-1-16 apply to a domestic relations court established under this chapter.

**Sec. 7. (a)** The judges of the circuit and superior courts may appoint:

- (1) a director of domestic relations counseling; or
- (2) at least one (1) counselor under this chapter or under IC 31-12-1.

**(b)** A counselor described in subsection (a)(2) or the organization led by the director described in subsection (a)(1) is designated as a domestic relations counseling bureau.

SECTION 3. IC 31-12-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

#### **Chapter 4. Domestic Relations Counseling Bureau Fee**

**Sec. 1. (a)** Upon order of a judge or group of judges described in IC 31-12-1, IC 31-12-1.5, or IC 31-12-2, and in accordance with this chapter, a court that provides domestic relations counseling

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services may charge a fee for these services.

(b) In addition to any other domestic relations counseling services ordered by the court, a domestic relations counseling bureau may provide the following domestic relations counseling services:

- (1) Screening.
- (2) Investigation.
- (3) Reporting.
- (4) Evaluation.
- (5) Counseling.
- (6) Mediation.

Sec. 2. (a) If a judge or group of judges issues an order under section 1 of this chapter to charge a domestic relations counseling fee, the judge must also adopt by court rule a schedule of fees. The schedule of fees is not effective until approved by the county fiscal body in accordance with this chapter.

(b) Upon request of a judge or group of judges that issued an order under section 1 of this chapter, the county fiscal body may adopt an ordinance to create a county domestic relations counseling bureau fund to fund the services of a domestic relations court and a domestic relations counseling bureau.

(c) If the county fiscal body creates a domestic relations counseling bureau fund, any fees collected by the domestic relations counseling bureau shall be deposited in the fund.

(d) The fund shall be administered by the judge or group of judges who are signatories to the order described in section 1 of this chapter.

(e) The expenses of administering the fund shall be paid from the money in the fund.

(f) Any money in the fund at the end of a fiscal year does not revert to the county general fund.

(g) The county fiscal body may appropriate money from the domestic relations counseling bureau fund to support the domestic relations counseling bureau. However, a county fiscal body may not transfer funds that have been previously appropriated to the budget of the domestic relations counseling bureau as a consequence of an appropriation from the domestic relations counseling bureau fund.

Sec. 3. With the prior approval of the judge or group of judges described in IC 31-12-1, IC 31-12-1.5, or IC 31-12-2, a domestic relations counseling bureau may receive gifts and donations from a private source to supplement the budget of the domestic relations

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**counseling bureau.**

SECTION 4. IC 33-28-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The jury commissioners shall immediately, from ~~the names of legal voters and citizens of the United States on the latest tax duplicate and the tax schedules of the county;~~ **lists approved by the supreme court that may be used to select prospective jurors,** examine for the purpose of determining the sex, age, and identity of prospective jurors, and proceed to select and deposit, in a box furnished by the clerk for that purpose, the names, written on separate slips of paper of uniform shape, size, and color, of twice as many persons as will be required by law for grand and petit jurors in the courts of the county, for all the terms of the courts, to begin with the following calendar year.

(b) Each selection shall be made as nearly as possible in proportion to the population of each county commissioner's district. In making the selections, the jury commissioners shall in all things observe their oaths. The jury commissioners shall not select the name of any person who is to them known to be interested in or has case pending that may be tried by a jury to be drawn from the names so selected.

(c) The jury commissioners shall deliver the locked box to the clerk of the circuit court, after having deposited into the box the names as directed under this section. The key shall be retained by one (1) of the jury commissioners, who may not be an adherent of the same political party as the clerk.

(d) In a county containing a consolidated city, the jury commissioners may, upon an order made by the judge of the circuit court and entered in the records of the circuit court of the county, make the selections and deposits required under this section monthly instead of annually. The jury commissioners may omit the personal examination of prospective jurors ~~the examination of voters lists~~ and make selection without reference to county commissioners' districts. The judge of the circuit court in a county containing a consolidated city may do the following:

- (1) Appoint a secretary for the jury commissioners, and sufficient stenographic aid and clerical help to properly perform the duties of the jury commissioners.
- (2) Fix the salaries of the commissioners, the secretary, and stenographic and clerical employees.
- (3) Provide office quarters and necessary supplies for the jury commissioners and their employees.

The expenses incurred under this subsection shall be paid for from the treasury of the county upon the order of the court.

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(e) Subject to appropriations made by the county fiscal body, the jury commissioners may use a computerized jury selection system. However, the system used for the selection system must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors. The jurors selected under the computerized jury selection system must be eligible for selection under this chapter. The commissioners shall deliver the names of the individuals selected to the clerk of the circuit court. The commissioners shall observe their oath in all activities taken under this subsection.

(f) The jury commissioners may supplement voter registration lists and tax schedules under subsection (a) with names from lists of persons residing in the county that the jury commissioners may designate as necessary to obtain a cross-section of the population of each county commissioner's district. The lists designated by the jury commissioners under this subsection must be used for the selection of jurors throughout the entire county.

(g) The supplemental sources designated under subsection (f) may consist of such lists as those of utility customers; persons filing income tax returns; motor vehicle registrations; city directories; telephone directories; and driver's licenses. These supplemental lists may not be substituted for the voter registration list. The jury commissioners may not draw more names from supplemental sources than are drawn from the voter registration lists and tax schedules.

SECTION 5. IC 33-28-4-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 10. (a) The employer of a person who:**

- (1) is summoned to serve as a juror; and**
- (2) notifies the employer of the jury summons:**
  - (A) within a reasonable time after receiving the jury summons; and**
  - (B) before the person appears for jury duty;**

**may not subject the person to any adverse employment action as the result of the person's jury service.**

**(b) An employee may not be required or requested to use annual leave, vacation leave, or sick leave for time spent:**

- (1) responding to a summons for jury duty;**
- (2) participating in the jury selection process; or**
- (3) serving on a jury.**

**This subsection does not require an employer to provide annual leave, vacation leave, or sick leave to an employee who is not otherwise entitled to these benefits.**

**(c) If:**

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- (1) a prospective juror works for an employer with ten (10) or fewer full-time employees (or their equivalent);
- (2) another employee of the employer described in subdivision (1) is performing jury service; and
- (3) the prospective juror or the employee performing jury service notifies the court that they both work for the same employer;

**the court shall reschedule the prospective juror's jury service for a date that does not overlap with the jury service of the other employee already performing jury service.**

SECTION 6. IC 33-28-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. As used in this chapter, "master list" means:

- (1) a serially printed list;
- (2) a magnetic tape;
- (3) an Addressograph file;
- (4) a punched card file;
- (5) a computer record; or
- (6) another form of record determined by the supervising judge to be consistent with this chapter;

that fosters the policy and protects the rights secured by this chapter **and contains all current, up-to-date voter registration lists for each precinct in the county, and is supplemented by names derived from other sources identified under this chapter: the current lists approved by the supreme court that may be used to select prospective jurors.**

SECTION 7. IC 33-28-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The jury commissioner shall compile and maintain a master list consisting of ~~all~~ the voter registration lists for the county, supplemented with names from other lists of persons resident in the county that the supreme court shall periodically designate as necessary to obtain the broadest cross-section of the county, having determined that use of supplemental lists is feasible. The supreme court may designate supplemental lists for use by the courts periodically in a manner that fosters the policy and protects the rights secured by this chapter. Supplemental sources may consist of lists of:

- (1) utility customers;
- (2) property taxpayers; and
- (3) persons filing income tax returns; motor vehicle registrations; city directories; telephone directories; and driver's licenses.

Supplemental lists may not be substituted for the voter registration list: **lists approved by the supreme court that may be used to select**

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**prospective jurors.** In drawing names from supplemental lists, **compiling the master list**, the jury commissioner shall avoid duplication of names.

(b) A person who has custody, possession, or control of any of the lists making up or used in compiling the master list ~~including those designated under subsection (a) by the supreme court as supplementary sources of names~~, shall furnish the master list to the jury commissioner for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the courts.

(d) The master list of names is open to the public for examination as a public record. However, the source of names and any information other than the names contained in the source is confidential.

SECTION 8. IC 33-28-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. (a) A person who appears for service as a petit or grand juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service but is not selected and sworn as a juror completes the person's service at the end of one (1) day.

(b) A person who:

- (1) serves as a juror under this chapter; or
- (2) completes one (1) day of jury selection but is not chosen to serve as a juror;

may not be selected for another jury panel until all nonexempt persons on the master list have been called for jury duty.

(c) **The employer of a person who:**

- (1) **is summoned to serve as a juror; and**
- (2) **notifies the employer of the jury summons:**
  - (A) **within a reasonable time after receiving the jury summons; and**
  - (B) **before the person appears for jury duty;**

**may not subject the person to any adverse employment action as the result of the person's jury service.**

(d) **An employee may not be required or requested to use annual leave, vacation leave, or sick leave for time spent:**

- (1) **responding to a summons for jury duty;**
- (2) **participating in the jury selection process; or**
- (3) **serving on a jury.**

**This subsection does not require an employer to provide annual leave, vacation leave, or sick leave to an employee who is not otherwise entitled to these benefits.**

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(e) If:

- (1) a prospective juror works for an employer with ten (10) or fewer full-time employees (or their equivalent);
- (2) another employee of the employer described in subdivision (1) is performing jury service; and
- (3) the prospective juror or the person performing jury service notifies the court that they both work for the same employer;

the court shall reschedule the prospective juror's jury service for a date that does not overlap with the jury service of the other employee.

SECTION 9. IC 33-28-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. As used in this chapter, "master list" means ~~all current, up-to-date voter registration lists for each precinct in the county supplemented with names from other sources prescribed pursuant to this chapter;~~ **the current lists approved by the supreme court that may be used to select prospective jurors** in order to foster the policy and protect the rights secured by this chapter. The master list may be in the form of a serially printed list, a magnetic tape, an Addressograph file, punched cards, or such other form considered by the chief judge to be consistent with this chapter.

SECTION 10. IC 33-28-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The jury commissioner shall compile and maintain a master list consisting of ~~all the voter registration lists for the county, supplemented with names from other lists of persons resident in the county that the supreme court shall periodically designate as necessary to obtain the broadest cross-section of the county, having determined that use of the supplemental lists is feasible. The supreme court shall exercise the authority to designate supplemental lists periodically in order to foster the policy and protect the rights secured by this article. The supplemental sources may include lists of utility customers, property taxpayers, and persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses. Supplemental lists may not be substituted for the voter registration list.~~ **lists approved by the supreme court that may be used to select prospective jurors.** In drawing names from supplemental lists, **compiling the master list,** the jury commissioner shall avoid duplication of names.

(b) Whoever has custody, possession, or control of any of the lists making up or used in compiling the master list ~~including those~~

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designated under subsection (a) by the supreme court as supplementary sources of names; shall furnish the list to the jury commissioner for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the court.

(d) The master list of names shall be open to the public for examination as a public record, except that the source of names and any information other than the names contained in that source may not be public information.

SECTION 11. IC 33-28-6-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 27. (a) The employer of a person who:**

- (1) is summoned to serve as a juror; and**
- (2) notifies the employer of the jury summons:**
  - (A) within a reasonable period after receiving the jury summons; and**
  - (B) before the person appears for jury duty;**

**may not subject the person to any adverse employment action as the result of the person's jury service.**

**(b) An employee may not be required or requested to use annual leave, vacation leave, or sick leave for time spent:**

- (1) responding to a summons for jury duty;**
- (2) participating in the jury selection process; or**
- (3) serving on a jury.**

**This subsection does not require an employer to provide annual leave, vacation leave, or sick leave to an employee who is not otherwise entitled to these benefits.**

**(c) If:**

- (1) a prospective juror works for an employer with ten (10) or fewer full-time employees (or their equivalent);**
- (2) another employee of the employer described in subdivision (1) is performing jury service; and**
- (3) the prospective juror or the employee performing jury service notifies the court that they both work for the same employer;**

**the court shall reschedule the prospective juror's jury service for a date that does not overlap with the jury service of the employee already performing jury service.**

SECTION 12. IC 33-33-49-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a)** There is established a superior court in Marion County. The court consists of:

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~~thirty-two (32)~~

**(1) thirty-five (35) judges beginning January 1, 2007, and ending December 31, 2008; and**

**(2) thirty-six (36) judges beginning January 1, 2009.**

(b) To be qualified to serve as a judge of the court, a person must be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 is filed:

(1) a resident of Marion County; and

(2) an attorney who has been admitted to the bar of Indiana for at least five (5) years.

(c) During the term of office, a judge of the court must remain a resident of Marion County.

SECTION 13. IC 33-33-49-13, AS AMENDED BY P.L.2-2005, SECTION 93, AND AS AMENDED BY P.L.58-2005, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Each judge of the court shall be elected for a term of six (6) years that begins January 1 after the year of the judge's election and continues through December 31 in the sixth year. The judge shall hold office for the six (6) year term or until the judge's successor is elected and qualified. A candidate for judge shall run at large for the office of judge of the court and not as a candidate for judge of a particular room or division of the court.

(b) Beginning with the primary election held in ~~1996~~ **2008** and every six (6) years thereafter, a political party may nominate not more than eight (8) candidates for judge of the court. Beginning with the primary election held in ~~2000~~ **2006** and every six (6) years thereafter, a political party may nominate not more than ~~nine (9)~~ **ten (10)** candidates for judge of the court. The candidates shall be voted on at the general election. Other candidates may qualify under IC 3-8-6 to be voted on at the general election.

(c) The names of the party candidates nominated and properly certified to the Marion County election board, along with the names of other candidates who have qualified, shall be placed on the ballot at the general election in the form prescribed by ~~IC 3-11-2~~ *IC 3-11*. Beginning with the ~~1996~~ **2008** general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for ~~fifteen (15)~~ **sixteen (16)** candidates for judge of the court. Beginning with the ~~2000~~ **2006** general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for ~~seventeen (17)~~ **twenty (20)** candidates for judge of the court.

(d) The candidates for judge of the court receiving the highest number of votes shall be elected to the vacancies. The names of the

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candidates elected as judges of the court shall be certified to the county election board as provided by law.

SECTION 14. IC 33-33-49-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Not more than thirty (30) days after taking the oath of office, the judges shall meet and designate ~~three (3)~~ **four (4)** of the judges as the executive committee for administrative purposes. The executive committee shall be selected by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken. If all vacancies cannot be filled by a two-thirds (2/3) vote, vacancies may be filled by such other method as provided by court rule. The executive committee is responsible for the operation and conduct of the court. A member of the executive committee shall serve in the capacity provided by rules adopted by the court under section 11 of this chapter. A member of the executive committee serves for a term of two (2) years beginning on the date of the member's election. **Except for the rotation of the presiding judge as provided in subsection (b),** any or all of the members elected to the executive committee may be reelected. Of the ~~three (3)~~ **four (4)** judges elected to the executive committee, not more than two (2) may be members of the same political party.

(b) One (1) of the ~~three (3)~~ **four (4)** judges elected to the executive committee shall be elected as presiding judge and ~~two (2)~~ **three (3)** of the ~~three (3)~~ **four (4)** judges elected to the executive committee shall be elected as associate presiding judges. **Beginning with the election of the executive committee in 2007, a presiding judge may not be elected from the same political party as the presiding judge who served the previous term.** Each judge who is a member of the executive committee has an equal vote in all matters pertaining to the business of the court when an action requires a majority vote. **If a tie vote occurs, the presiding judge shall cast the tiebreaking vote.** Any action taken by the executive committee may be overruled by a vote of two-thirds (2/3) of all the judges sitting at the time the vote is taken. The physical reassignment of a judge to a different courtroom requires a unanimous vote of the executive committee. The executive committee shall assign cases, offices, and courtrooms for trial judges or reassignment of newly filed cases in the interests of the speedy, economical, and uniform disposition of cases. All matters of trial dates, continuances, and subpoenas used for trial shall be determined by the trial judge in accordance with rules of the superior court. The executive committee shall perform other duties as determined by rules of the court.

(c) The court shall, by rules of the court, divide the work of the court

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into various divisions, including but not limited to the following:

- (1) Civil.
- (2) Criminal.
- (3) Probate.
- (4) Juvenile.

(d) The work of each division shall be allocated by the rules of the court.

(e) The judges shall be assigned to various divisions or rooms as provided by rules of the court. Whenever possible, an incumbent judge shall be allowed the option of remaining in a particular room or division. Whenever any action of the court is required, the judges of the court shall act in concert, by a vote under section 11 of this chapter. The court shall keep appropriate records of rules, orders, and assignments of the court.

SECTION 15. IC 33-33-49-32, AS AMENDED BY P.L.33-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) In addition to the magistrate appointed under section 31 of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint:

- (1) four (4) full-time magistrates under IC 33-23-5 **until January 1, 2008, not more than two (2) of whom may be from the same political party; and**
- (2) **eight (8) full-time magistrates under IC 33-23-5 after December 31, 2007, not more than four (4) of whom may be from the same political party.**

~~(b)~~ Not more than two (2) of the magistrates appointed under this section may be of the same political party.

~~(c)~~ (b) The magistrates continue in office until removed by the vote of a majority of the judges of the court.

~~(d)~~ (c) A party to a superior court proceeding that has been assigned to a magistrate appointed under this section may request that an elected judge of the superior court preside over the proceeding instead of the magistrate to whom the proceeding has been assigned. A request under this subsection must be in writing and must be filed with the court:

- (1) in a civil case, not later than:
  - (A) ten (10) days after the pleadings are closed; or
  - (B) thirty (30) days after the case is entered on the chronological case summary, in a case in which the defendant is not required to answer; or
- (2) in a criminal case, not later than ten (10) days after the omnibus date.

Upon a timely request made under this subsection by either party, the

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magistrate to whom the proceeding has been assigned shall transfer the proceeding back to the superior court judge.

SECTION 16. IC 33-37-5-27, AS ADDED BY P.L.176-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) This subsection does not apply to the following:

- (1) A criminal proceeding.
- (2) A proceeding to enforce a statute defining an infraction.
- (3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1 and in each small claims action in a court described in IC 33-34, the clerk shall collect a court administration fee of ~~two three~~ dollars (~~\$2~~): (**\$3**).

(b) In each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have committed an infraction; or
- (4) found to have violated an ordinance;

the clerk shall collect a court administration fee of ~~two three~~ dollars (~~\$2~~): (**\$3**).

SECTION 17. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 33-28-5-8; IC 33-28-6-8.

SECTION 18. [EFFECTIVE UPON PASSAGE] **IC 6-1.1-18.5-13, as amended by this act, applies only to ad valorem property taxes first due and payable after December 31, 2006.**

SECTION 19. [EFFECTIVE UPON PASSAGE] (a) **The thirty-third, thirty-fourth, and thirty-fifth judges of the Marion superior court added by IC 33-33-49-6, as amended by this act, shall be elected at the general election on November 7, 2006, for terms beginning January 1, 2007, and ending December 31, 2012. At the primary election held in 2006, a political party may nominate not more than nine (9) candidates for judge of the court. A political party may nominate one (1) additional candidate to be elected judge of the court at the 2006 general election using the candidate vacancy provisions under IC 3-13-1 for a total of not more than ten (10) candidates for judge of the court. Other candidates may qualify under IC 3-8-6 to be voted on at the general election. The candidates shall be voted on at the general election. At the 2006 general election, persons eligible to vote at the general election may vote for twenty (20) candidates for judge of the court.**

(b) **The thirty-sixth judge of the Marion superior court added by IC 33-33-49-6, as amended by this act, shall be elected at the**

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general election on November 4, 2008, for terms beginning January 1, 2009, and ending December 31, 2014. At the primary election held in 2008, a political party may nominate not more than eight (8) candidates for judge of the court. Other candidates may qualify under IC 3-8-6 to be voted on at the general election. The candidates shall be voted on at the general election. At the 2008 general election, persons eligible to vote at the general election may vote for sixteen (16) candidates for judge of the court.

(c) This act may not be construed to affect the term of any judge serving on the Marion superior court on the effective date of this act.

(d) This SECTION expires January 2, 2015.

SECTION 20. An emergency is declared for this act.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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HEA 1156 — Concur+

